

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 20-20489

ADAM ANTONIO BRADLEY,

Defendant.

**ORDER GRANTING THE GOVERNMENT'S MOTION FOR AN ORDER FINDING
A WAIVER OF ATTORNEY CLIENT PRIVILEGE**

Defendant Adam Antonio Bradley filed a motion to vacate his sentence under 28 U.S.C. §2255, based on, among others, ineffective assistance of his appointed attorney, Bertram Johnson. (ECF No. 45., PageID.249, 252.) Pending before the court is the Government's motion asking the court to find a waiver of the attorney-client privilege, direct Bradley's trial counsel to provide information, and extend the time to respond to Defendant's motion. (ECF No. 51.)

"[L]itigants cannot hide behind the privilege if they are relying upon privileged communications to make their case." *In re Lott*, 424 F.3d 446, 454 (6th Cir. 2005). By claiming ineffective assistance of counsel, Defendant "implicitly waives the attorney-client privilege to the extent that any privileged communications bear on his attorney's performance." *United States v. Chang*, No. CR 18-20008, 2022 WL 2181046, at *2 (E.D. Mich. June 16, 2022) (Cox, J.) (citing *Lott*, 424 F.3d at 452-54); *United States v. Ball*, No. 06-20465, 2017 WL 3264021, at *2 (E.D. Mich. Aug. 1, 2017) (Edmunds, J.); *United States v. Abdi*, No. 17-CR-20738, 2022 WL 303666, at *1 (E.D. Mich. Feb. 1,

2022) (Goldsmith, J.) A limited waiver is necessary for the Government to respond to Defendant's claims.

Defendant does not dispute this. By a letter dated November 11, 2022 to the court, Defendant indicates that he is "aware [that his] claims will result in a 'finding of waiver of the attorney-client and work product privileges.'" However, he "do[es] not wish to withdraw [his] claims." Accordingly, the court finds that the attorney-client privilege is waived as to those claims and allowing the Government to obtain from Attorney Johnson information related to those claims.

IT IS ORDERED that the Government's "Motion for Order Finding a Waiver of Attorney-Client Privilege, Directing Trial Counsel to Provide Information, and for an Extension of Time to Respond to Bradley's Motion" is GRANTED. Defendant has waived the attorney-client privilege to the extent necessary to litigate his claims for ineffective assistance of counsel. The Government shall respond to Defendant's motion within 60 days of this order.

s/Robert H. Cleland /
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: November 29, 2022

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, November 29, 2022, by electronic and/or ordinary mail.

s/Lisa Wagner /
Case Manager and Deputy Clerk
(810) 292-6522

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